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Oceans and the law of the sea

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

Letter dated 9 June 2003 from the Co-Chairpersons of the Consultative Process addressed to the President of the General Assembly

As Co-Chairpersons of the fourth meeting of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea, we have the honour to submit to you the attached report on the work of the Consultative Process at its fourth meeting, which was held at United Nations Headquarters from 2 to 6 June 2003.

In accordance with paragraph 3 (h) of General Assembly resolution 54/33 of 24 November 1999 and bearing in mind resolutions 57/141, 57/142 and 57/143 of the General Assembly relating to oceans and the law of the sea, the fourth meeting has proposed a number of elements to be suggested to the General Assembly for consideration under its agenda item entitled "Oceans and the law of the sea", as well as a list of issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea. The said list of issues is, of course, not intended as an exhaustive list.

(*Signed*) Felipe H. **Paolillo** and Philip D. **Burgess**
Co-Chairpersons

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Part A
Issues to be suggested to the General Assembly for consideration under its agenda item entitled "Oceans and the law of the sea"

A. General

1. 2003 marks the commencement of a new three-year period for the Consultative Process pursuant to General Assembly resolution 57/141, which recommended that discussions be organized around the following areas:

(a) Protecting vulnerable marine ecosystems; and

(b) The safety of navigation; for example, capacity-building for the production of nautical charts;

as well as issues discussed at previous meetings.

2. Reports were received from the Food and Agriculture Organization of the United Nations (FAO) and the United Nations Environment Programme (UNEP), respectively, on illegal, unreported and unregulated fishing and the protection of the marine environment from land-based activities — the two key topics from the first meeting of the Consultative Process.

3. The intervening period since the third meeting of the Consultative Process has seen a heightened awareness and focus on oceans issues with the 20th anniversary of the opening for signature of the United Nations Convention on the Law of the Sea (UNCLOS) and the World Summit on Sustainable Development (WSSD). The catastrophic consequences of the sinking of the oil tanker *Prestige* provided a dramatic focus for substantive discussion on safety of navigation and the protection of vulnerable marine ecosystems.

B. Safety of navigation

4. There is already a substantial body of international agreements, instruments and programmes of work addressing the issue of safety of navigation and it was proposed that the General Assembly reiterate its call in resolution 57/141 to improve the implementation of international agreements and the coordination of activities of organizations with related mandates and work programmes.

5. An effective maritime infrastructure and administration is, however, vital to ensure national compliance with international regulations, procedures and practices. Accordingly, it was further proposed that the General Assembly urge States to establish or strengthen appropriate national institutional and legal frameworks to achieve this end.

C. Capacity-building for the production of nautical charts

6. Hydrographic surveys and nautical charting are critical to the safety of navigation and life at sea, environmental protection, including vulnerable marine ecosystems and the economics of the global shipping industry. The move towards

electronic charting not only provides significantly increased benefits for safer navigation and management of ship movements but also provides data and information that can be used for fisheries activities and other sectoral uses of the marine environment, delimitation of maritime boundaries and environmental protection.

7. It was proposed that the General Assembly:

(a) Welcome the work of the International Hydrographic Organization (IHO) and its 14 regional hydrographic commissions and encourage increased membership of the IHO by States, noting that organization's capacity to provide technical assistance, facilitate training and identify potential funding sources for development or improvement of hydrographic services; and call upon States and agencies to support the IHO trust fund and examine the possibility of partnerships with the private sector;

(b) Invite IHO and the International Maritime Organization (IMO) to continue their coordinated efforts and to jointly adopt measures with a view to encouraging greater international cooperation and coordination for the transition to electronic nautical charts; and to increase the coverage of hydrographic information on a global basis, especially in the areas of international navigation and ports and where there are vulnerable or protected marine areas;

(c) Encourage intensified efforts to build capacity for developing countries, in particular for the least developed countries, small island developing States and coastal African States, to improve hydrographic services and the production of nautical charts, including the mobilization of resources and building of capacity with support from international financial institutions and the donor community, recognizing that economies of scale can apply in some instances at the regional level through shared facilities, technical capabilities and information for the provision of hydrographic services and the preparation of and access to nautical charts.

D. Measures to enhance safety of navigation

8. It was proposed that the General Assembly:

(a) Urge States and regional integrated economic organizations to work within the framework of IMO and in accordance with UNCLOS and international rules and regulations regarding measures related to the phase-out of single-hull tankers; and welcome IMO's giving priority to the consideration of any proposals related thereto;

(b) Welcome the work of IMO in developing guidelines on places of refuge for ships in need of assistance; and encourage States to draw up plans and to establish procedures to accommodate such ships in waters under their jurisdiction;

(c) Welcome the convening by the International Atomic Energy Agency (IAEA) of an International Conference on the Safety of Transport of Radioactive Material, 7-11 July 2003, which will provide an opportunity for States to address issues relating to the maritime transport of radioactive materials by sea;

(d) Reiterate its call in resolution 57/141 for all States and relevant international bodies to cooperate in the prevention and combating of piracy and

armed robbery at sea and urge States to give urgent attention towards promoting, concluding and implementing regional agreements, in particular in high-risk areas;

(e) Urge States to implement, as a matter of priority, maritime security legislation consistent with UNCLOS and other relevant agreements for the benefit of world sea-borne trade.

E. Flag State implementation and enforcement

9. Improved implementation and enforcement by some flag States of their responsibilities and duties under international law is urgent and essential to maritime safety as well as sustainable marine resource management. Some flag States are not adequately meeting their obligations under UNCLOS, in particular article 94. This failure puts at risk the delicate balance between the freedoms of navigation enshrined in international law and the rights, obligations and interests of coastal and other States to protect and preserve the marine environment and its resources. This failure also jeopardizes the welfare of seafarers and the interests and obligations of all States in protecting the environment and the resources of the high seas.

10. A multilateral approach is fundamental to addressing international challenges to ship safety, pollution prevention standards, labour standards for seafarers and conservation and management measures.

11. There is also an urgent need to mobilize the necessary resources to assist those flag States that are genuinely attempting to discharge their obligations and responsibilities but are unable to do so owing to capacity constraints; and to address the problem of those flag States that do not meet their responsibilities under international law.

12. It was proposed that the General Assembly:

(a) Urge those flag States without an effective maritime administration and appropriate legal frameworks to establish or enhance the necessary infrastructure, legislative and enforcement capabilities to ensure the effective implementation and enforcement of their responsibilities; and until such action is undertaken, to consider declining the granting of the right to fly their flag to new vessels, suspend their registry or not to open a registry;

(b) Invite the relevant competent international organizations and the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat to examine and clarify the role of the "genuine link" in relation to the duty of flag States to exercise effective control over ships flying their flag;

(c) Request the Division for Ocean Affairs and the Law of the Sea of the Secretariat, in cooperation and consultation with relevant organizations and agencies and programmes of the United Nations system, to prepare and disseminate to States a comprehensive articulation of the duties and obligations of flag States and the legal consequences of non-compliance;

(d) Encourage the acceleration of the work of IMO in developing a voluntary model audit scheme and urge IMO to strengthen its draft implementation code;

(e) Welcome the work of FAO in promoting compliance by States and their fishing vessels with conservation and management measures; and request IMO and

FAO to enhance their cooperation and coordination in their efforts with regard to flag State duties relating thereto, including through the Inter-agency Consultative Group on Flag State Implementation;

(f) Welcome the work of the International Labour Organization (ILO) to consolidate and modernize international maritime labour standards and call upon Member States to take an active interest in the development of these new standards for seafarers and fishermen;

(g) Recognize the important role of port States in promoting compliance by flag States with internationally agreed safety, labour and pollution standards, as well as with maritime security regulations and with conservation and management measures;

(h) Invite IMO to strengthen its functions with regard to port State control in relation to safety, labour and pollution standards so as to promote the implementation of globally agreed minimum standards by all States; and invite FAO to continue its work in promoting port State measures in relation to fishing vessels in order to combat illegal, unreported and unregulated (IUU) fishing;

(i) Support the establishment of closer links and increased exchange of information between the various regional memorandums for port State control;

(j) Call upon flag and port States to take all measures consistent with international law necessary to prevent the operation of substandard vessels and illegal, unreported and unregulated fishing activities.

F. Protection of vulnerable marine ecosystems

13. The General Assembly in its resolution 57/141 welcomed the commitments set out in the Johannesburg Plan of Implementation (JPOI) to actions at all levels in accordance with international law to ensure the sustainable development of the oceans, including, inter alia, maintaining the productivity and biodiversity of important and vulnerable marine and coastal areas, including in areas beyond national jurisdiction.

14. The key to the protection of vulnerable marine ecosystems is to manage effectively the threats to, and impacts on, those ecosystems and, while there is already a substantial body of international agreements and programmes of work addressing marine environmental protection, it was proposed that the General Assembly again reiterate the fundamental need to improve the implementation of international agreements and the coordination and cooperation of organizations with related mandates and work programmes.

15. The need for an integrated, interdisciplinary, intersectoral and ecosystem-based approach to management, consistent with the legal framework provided by UNCLOS, the goals of chapter 17 of Agenda 21 and the Johannesburg Plan is re-emphasized by the Consultative Process.

16. It was proposed that the General Assembly:

(a) Welcome the continued work of the United Nations Environment Programme (UNEP), States and regional organizations in the implementation of the

Global Programme of Action for the Protection of the Marine Environment from Land-based Activities;

(b) Stress the need to accelerate activity to safeguard the marine environment against pollution and physical degradation, taking into account the time-bound targets in the Johannesburg Plan of Implementation (JPOI);

(c) Emphasize that the protection of coastal and marine environments is an important component of the World Summit on Sustainable Development target on sanitation;

(d) Invite the Commission on Sustainable Development to include in its focus on water for the next two years the effects of freshwater management on saltwater environments; and

(e) Encourage increased emphasis on the link between freshwater, the coastal zone and marine resources in the implementation of the Millennium Development Goals, taking into account the time-bound targets in the Johannesburg Plan of Implementation and the Monterrey Consensus on Financing for Development.

17. It was proposed that the General Assembly express its satisfaction at the entry into force of the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; and call upon all States that have not yet done so to:

(a) Ratify or accede to and effectively implement the relevant United Nations and, where appropriate, associated regional fisheries agreements or arrangements, noting in particular the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;

(b) Urgently develop and implement national, and as appropriate, regional plans of action to put into effect the FAO international plans of action, in particular the International Plan of Action for the Management of Fishing Capacity by 2005 and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing by 2004.

18. It was proposed that the General Assembly:

(a) Request the relevant parts of the United Nations system, international financial institutions and donor agencies to support increased enforcement and compliance capabilities for regional fisheries management organizations and their Member States;

(b) Encourage work to examine and clarify the role of the genuine link between fishing vessels and their flag States;

(c) Recommend that the interrelationship between ocean activities, such as shipping and fishing, and environmental issues be further addressed.

19. It was proposed that the General Assembly:

Welcome the work under the Convention on Biological Diversity by FAO and other relevant international organizations at all levels in their development of strategies and programmes for the implementation of ecosystem-based management;

and urge these organizations to cooperate in the development of practical guidance in this regard.

20. It was proposed that the General Assembly:

(a) Reiterate its call for urgent consideration of ways to integrate and improve, on a scientific basis, the management of risks to marine biodiversity of seamounts, cold water coral reefs and certain other underwater features;

(b) Note the scientific and technical work under the Convention on Biological Diversity relating to marine and coastal biodiversity;

(c) Invite the relevant international bodies at all levels, in accordance with their mandate, to consider urgently how to better address, on a scientific and precautionary basis, the threats and risks to vulnerable and threatened marine ecosystems and biodiversity beyond national jurisdiction; how existing treaties and other relevant instruments can be used in this process consistent with international law, in particular with the United Nations Convention on the Law of the Sea (UNCLOS), and consistent with the principles of an integrated ecosystem-based approach to management, including the identification of those marine ecosystem types that warrant priority attention; and to explore a range of potential approaches and tools for their protection and management.

21. It was proposed that the General Assembly:

(a) Urge States and relevant international bodies at all levels to enhance their cooperation in the protection and preservation of coral reefs, mangroves and seagrass beds, including through the exchange of information;

(b) Reiterate its support for the International Coral Reef Initiative (ICRI), welcome the outcomes from the Second International Tropical Marine Ecosystems Management Symposium held in Manila in 2003 and support the work of the Jakarta Mandate on Coastal and Marine Biodiversity;

(c) Emphasize the need to mainstream coral reef management approaches into national development strategies, as well as into the activities of relevant United Nations agencies and programmes, international financial institutions and the donor community;

(d) Invite ICRI and other relevant bodies to consider incorporating cold water coral ecosystems into their programme of activities.

22. It was proposed that the General Assembly:

Reaffirm the efforts of States to develop and facilitate the use of diverse approaches and tools for conserving and managing vulnerable marine ecosystems, including the establishment of marine protected areas (MPAs), consistent with international law and based on the best scientific information available, and the development of representative networks of such marine protected areas by 2012.

23. It was proposed that the General Assembly:

Urge IMO as a matter of urgency to complete its work on the development of a draft convention on the control and management of ships' ballast water and sediments and to convene as soon as possible a diplomatic conference to adopt such a convention.

G. Cooperation and coordination on ocean issues

24. It was proposed that the General Assembly:

(a) Express its concern that a new coordinating mechanism for issues relating to oceans and seas called for in paragraphs 63-65 of resolution 57/141 has not been established, and strongly reiterate its request to establish such a mechanism, taking into account paragraph 49 of Part A of the report of the Consultative Process at its third meeting;

(b) Welcome the establishment of the inter-agency Consultative Group on Flag State Implementation, encourage it to study all aspects of the issue, and invite the Secretary-General to distribute its report to the next meeting of the Consultative Process.

25. In order to provide a scientific basis for decision-making on oceans-related issues, it is advisable to establish a regular process under the United Nations for the global reporting and assessment of the state of the marine environment, including socio-economic aspects, as stipulated in resolution 57/141, and it was proposed that the General Assembly:

(a) Welcome the development of a Global Marine Assessment (GMA) as an important step towards strengthening cooperation and coordination between the various organizations and specialized agencies dealing with oceans issues and as a crucial tool to improve policy-making in Governments;

(b) Invite the Division for Ocean Affairs and the Law of the Sea of the Secretariat (DOALOS) to convene an inter-agency meeting to define the participation and contribution of individual organizations, specialized agencies and relevant regional bodies, including regional seas conventions and action plans, to the GMA process referred to in paragraph 45 of resolution 57/141 and paragraph 36 (b) of the Johannesburg Plan of Implementation;

(c) Request DOALOS to convene a group of experts to prepare a detailed plan for the Global Marine Assessment (GMA) for consideration by an intergovernmental meeting, that would define, inter alia, the role of the scientific community, including the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP), and the possible contributions of non-governmental organizations to the GMA;

(d) Invite the Secretary-General to convene an intergovernmental meeting to discuss and endorse the detailed plan for the scope, modalities and organizational structure of the GMA and to formally establish the process.

Part B
Co-Chairpersons' summary of discussions

Agenda item 1
Opening of the meeting

26. The discussions at the first and the second plenary sessions of the fourth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea were based on the annual report of the Secretary-

General on oceans and the law of the sea (A/58/65), as well as on other documents before the meeting, including written submissions by States and international organizations.

27. The overall legal framework for the discussions was provided by the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS) and its two implementing Agreements,[1] while chapter 17 of Agenda 21 provided the programme of action for the sustainable development of oceans and seas, which was re-emphasized in decision 7/1 adopted by the Commission on Sustainable Development at its seventh session, in 1999, and by the Johannesburg Plan of Implementation (JPOI) of the World Summit on Sustainable Development (WSSD) (see report of the World Summit on Sustainable Development, A/CONF.199/20).

28. The meeting was opened by the Co-Chairperson of the fourth meeting, Felipe H. Paolillo (Uruguay). Hans Corell, Under-Secretary-General for Legal Affairs, the Legal Counsel, briefly addressed the meeting in connection with the results of the in-depth evaluation of the Division for Ocean Affairs and the Law of the Sea by the Office of Internal Oversight Services and invited delegations to provide feedback on the performance of the Secretariat. Philip D. Burgess, Co-Chairperson of the fourth meeting (Australia), paid tribute to the former co-chairpersons of the first three meetings of the Consultative Process, Tuiloma Neroni Slade (Samoa) and Alan Simcock (United Kingdom) and reiterated the nature of the work of the Consultative Process and the need to identify practical and achievable outcomes from the meeting.

Agenda item 2
Approval of the format of the meeting and adoption of the agenda

29. Mr. Paolillo presented the proposals of the Co-Chairpersons for the format and annotated provisional agenda of the fourth meeting (A/AC.259/L.4). As a result of the informal consultations preceding the meeting,[2] the format and annotated provisional agenda were adopted by consensus.

Agenda item 3
Exchange of views on areas of concern and actions needed

A. The Consultative Process

30. Delegations welcomed the decision by the General Assembly in resolution 57/141 to extend the Consultative Process for another three years. They highlighted the benefits of the innovative format of the Process, which encouraged participation by intergovernmental agencies and non-governmental organizations. The format provided for comprehensive, focused and constructive examination of legal, political, economic, social, environmental and other relevant aspects of ocean affairs. Many participants emphasized the need to continue the practice established

[1] Agreement relating to the Implementation of Part XI of the Convention and the Agreement for the Implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

[2] One round of informal consultations was held on 14 April 2003.

at the current meeting of reporting on progress made in the areas of focus discussed at previous meetings.

B. The World Summit on Sustainable Development and the Johannesburg Plan of Implementation

31. Many delegations expressed satisfaction that the outcome of the third meeting of the Consultative Process in 2002 had contributed to the success of the World Summit on Sustainable Development (WSSD) and to the inclusion of two chapters in the Johannesburg Plan relating to ocean affairs, namely, Chapter IV, paras. 30-36 on "Oceans, seas, islands and coastal areas" and Chapter VII on "Small island developing States". There was general agreement that the WSSD oceans text emphasized action-oriented approaches and that it was critical to effectively implement the WSSD commitments.

32. A number of delegations made reference to WSSD partnership initiatives, which included, inter alia, conserving biodiversity on the high seas, protecting coral reefs and increasing scientific and technical collaboration on oceans observation and assessment. Particular mention was made of the third World Water Forum in Kyoto, which had explicitly encompassed marine issues, making critical links between freshwater and salt water. In addition, many delegations stressed the need to focus on the implementation and enforcement of relevant international instruments, programmes and plans.

33. The representative of the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO) informed the meeting that IOC would continue to develop the Global Oceans Observing System (GOOS) as the ocean component of the Global Climate Observing System, according to its mandate as confirmed by WSSD. He added that IOC had initiated action to comply with requests to increase its direct involvement in the implementation of Parts XIII and XIV of UNCLOS.

C. Report of the Secretary-General

34. The meeting expressed its appreciation for the quality of the report of the Secretary-General on "Oceans and the law of the sea" and the comprehensive background material on the two areas of focus, for the fourth meeting. However, a number of delegations regretted that some traditional subjects had been omitted from the report owing to limitations on its length and expressed their wish for more comprehensive reporting on oceans and the law of the sea in order to facilitate and inform the debate in the General Assembly.

D. Implementation of UNCLOS, the related Agreements and relevant international instruments

35. There was general agreement that UNCLOS continued to provide the overall legal framework for all ocean activities and that States should provide for its effective implementation and enforcement. A number of States Parties urged States that had not yet done so to consider ratifying or acceding to UNCLOS and other international instruments, stressing the importance of universality. They also underlined the need to harmonize national policies and legislation with the Convention.

E. Fisheries governance and the issue of illegal, unreported and unregulated fishing (IUU fishing)

36. The representative of FAO reported on progress made in the implementation of responsible fisheries and the continuing problems of IUU fishing. He noted that fishery resources were continuing to experience severe pressures from, inter alia, increasing population and migration to coastal areas, mounting levels of fishing effort, increasing levels of land-based pollution, open- or quasi-open access fisheries, unsustainable fishing practices, competing activities in coastal zones and the lack of political will, or inability, to tackle the problems facing fisheries in a coherent and sustained manner.

37. Among encouraging developments, the FAO representative mentioned the progress made at the national and regional levels to implement the 1995 Code of Conduct for Responsible Fisheries; the recent entry into force of the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean; and the progress made towards the ratification of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

38. The FAO representative also stated that in order to facilitate and encourage strong and effective regional management of fishery resources, FAO had encouraged regional fishery bodies to: adopt precautionary measures; focus on ecosystem approaches to management; accommodate new entrants realistically; ensure that decision-making procedures were not an obstacle to effective fisheries management; and generally strengthen regional collaboration in fisheries matters in all areas.

39. In addition, the representative pointed out that FAO had adopted measures to disseminate and facilitate the implementation of its 2001 International Plan of Action to Prevent, Deter and Eliminate IUU fishing, including dissemination of the Code of Conduct Technical Guideline No. 9 relating to the practical implementation of the International Plan of Action. He indicated that FAO had been working with States and regional fishery bodies to strengthen monitoring, control and surveillance networks and referred to the Expert Consultation to Review Port State Measures to Combat IUU fishing, which was held in November 2002 and which elaborated a draft memorandum of understanding on port State measures to combat IUU fishing.

40. In conclusion, the representative informed the Consultative Process that FAO would convene a series of meetings to address the issue of IUU fishing. These included: (i) a meeting of countries that operate open registries scheduled to take place in Miami in September 2003; (ii) a Technical Consultation on the interface between IUU fishing and fishing capacity (June 2004); (iii) a Technical Consultation on Port State Measures to Combat IUU Fishing (September 2004); and (iv) a series of regional workshops from 2003 to 2005 to assist countries develop national plans of action to combat IUU fishing.

41. Many States pointed out that a major factor in the high incidence of IUU fishing was a failure by flag States to fulfil their obligations under international law, which had allowed illegal fishing to evolve into an organized criminal activity.

42. Several delegations provided an overview of their activities in the field of fisheries conservation and management, referring to regional agreements such as the

Framework Agreement for the Conservation of the Living Marine Resources on the High Seas of the South-East Pacific ("Galapagos Agreement"), Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, and to their implementation of the FAO Code of Conduct for Responsible Fisheries. One delegation reported that following the adoption of strict enforcement measures in respect to its fishing fleet on the basis of FAO instruments, its Government had managed to reduce excess fishing capacity and provide for the reduction of by-catch and discards.

43. In addition, a number of delegations stressed the need to operate on the basis of best scientific evidence available and scientific consensus among stakeholders in order to provide for effective management of ocean resources. They proposed, inter alia, to accelerate the implementation of controls on IUU fishing through a more systematic approach to compliance and enforcement measures adopted at the regional level and to strengthen regional fishery bodies to allow them to develop and apply an ecosystem-based and precautionary management approach to fishing activity.

F. Protection and preservation of marine environment

44. The representative of the United Nations Environment Programme (UNEP) provided a report on the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities. He highlighted three policy considerations in the implementation of the GPA, namely that: (i) the protection of coastal and marine environments was an important component of the WSSD target on sanitation; (ii) the focus of the Commission on Sustainable Development on water for the next two years should include the effects of freshwater management on saltwater coastal and marine ecosystems; and (iii) poverty reduction strategies and global efforts to implement the Millennium Development Goals and the Monterrey Consensus on Financing for Development should place increased emphasis on the link between freshwater, the coastal zone and marine resources. In this respect, the representative stated that freshwater and saltwater issues should no longer be considered in isolation, since the management of water, particularly water for sanitation and its treatment prior to re-entering the water cycle, was a fundamental policy issue with direct consequences for the health and productivity of coastal and marine areas.

45. He also indicated that among the outcomes of the 2001 first Intergovernmental Review Meeting on the Implementation of the Global Programme of Action (GPA), particular reference should be made to the Montreal Declaration and the approved programme of work of the GPA Coordination Office on the following issues: implementation of the Strategic Action Plan on Municipal Waste Water and the programme on physical alteration and destruction of habitats; and support to national Governments in developing and adopting national programmes of action to implement the Global Programme of Action. In this connection, the central role of Governments in implementing the GPA and the critical role of the respective regional seas conventions and action plans in facilitating coordination of such implementation were highlighted. Moreover, recognition was given to the urgent need for States to integrate coastal resource management and the requirements of coastal zone protection with river basin management.

46. A number of delegations and regional organizations referred to measures they had taken at the national, subregional and regional levels to protect the marine environment from pollution caused by human activities. Among those measures, reference was made to the establishment of environmentally coherent network of marine protected areas (MPAs) in the North Atlantic region and the development by the Arctic Council of a strategic plan for the protection of the Arctic marine environment.

47. One delegation noted, however, that despite some progress, the implementation of the Global Programme of Action had fallen short of expectations and recalled appeals for a new and improved process to assess marine pollution, noting the impacts of land-based activity on living marine resources and marine biodiversity.

G. Labour conditions of seafarers

48. The representative of the International Labour Organization (ILO) pointed out that UNCLOS placed on the flag State the primary responsibility for ensuring compliance of labour conditions of seafarers with applicable international instruments, such as the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) and the 1998 ILO Declaration on Fundamental Principles and Rights at Work. He indicated that ILO would convene an International Labour Conference in 2005 for the purpose of adopting a consolidation of the over 60 international maritime labour standards into a new clear, simple, enforceable, easy to ratify and easy to implement instrument. The Conference would also adopt comprehensive standards for working conditions in the fishing sector.

49. He referred to the recent ILO Tripartite Meeting of Experts on Working and Living Conditions of Seafarers on board Ships in International Registers, which stated that in order to effectively exercise its jurisdiction in social matters, every State should have a sound maritime administration with a firm legislative framework complying with, as a minimum, international labour standards and strong enforcement. The representative stressed that the flag State had overall responsibility for ensuring that the rights of seafarers were respected in relation to service on board ships flying its flag and for enforcing labour standards. Consequently, he called upon all Member States of the United Nations to take an active interest in the development of new ILO standards for seafarers and fishermen in order to close a gap in the implementation of UNCLOS and to ensure that the standard adopted was fully integrated into the web of international legal instruments.

50. One delegation stated that the failure of flag States to comply with their obligations facilitated human rights abuses against seafarers, migrants and refugees, and provided a permissive environment for illicit traffic of weapons to areas where they could contribute to human rights abuses.

H. Global Marine Assessment

51. Delegations noted with appreciation the decision of the General Assembly at its fifty-seventh session, as proposed by the Consultative Process in 2002 and recommended by WSSD, to establish by 2004 a regular process for global reporting and assessment of the state of the marine environment. At the same time, the need for maximum cooperation, coordination and avoidance of overlapping among all concerned agencies, including the European Environment Agency (EEA), the

International Council for the Exploration of the Sea (ICES), the Baltic Marine Environment Protection Commission (HELCOM) and the Oslo and Paris Commissions (OSPAR), was underlined.

Areas of focus

52. The two areas of focus for the fourth meeting of the Consultative Process were: (a) safety of navigation; for example, capacity-building for the production of nautical charts; and (b) protection of vulnerable marine ecosystems. With respect to the issue of safety of navigation, a number of delegations referred to the *Prestige* incident noting the damage to marine ecosystems and coastal areas of Spain, France and Portugal. It was pointed out that there was a lack of implementation by certain flag States of their obligations under UNCLOS and that temporary measures of a preventive character and based on the precautionary approach were justified. In this connection, some delegations, including the Alliance of Small Island States, reiterated their continuing concern over the shipment of radioactive materials through their exclusive economic zones, and the risks from exposure to nuclear materials. These delegations referred to proposals made to shipping States aimed at securing their acceptance of full responsibility and liability for compensation for damages, assurances as to compliance with the highest possible safety standards and appropriate advance notification of shipments.

53. Other delegations expressed concern that, since the *Prestige* incident, some coastal States had taken extreme measures inconsistent with international law as reflected in UNCLOS. In addition, measures taken unilaterally or on a regional basis might result in exporting the risks posed by substandard or certain types of vessels to other coastal areas. These delegations noted that the measures had been protested and emphasized that IMO was the appropriate forum for dealing with the issue of tanker safety. They considered that collective, multilateral solutions had to be found to protect the marine environment without disturbing the delicate balance of interests as reflected in UNCLOS.

54. Many delegations highlighted the continued degradation of the marine environment and the need to give priority to the protection of vulnerable marine ecosystems. It was noted that the most serious threats to the oceans arose from both coastal and inland human activities resulting in pollution and habitat destruction, as well as from the effects of fisheries activities, in particular, IUU fishing. A group of delegations expressed the opinion that a broad range of rules and measures already existed to protect vulnerable marine ecosystems and that greater efforts were needed to ensure the effective application of all existing instruments.

55. Other delegations welcomed the commitments reflected in the Johannesburg Plan of Implementation of the WSSD and the work conducted within the context of developing an environmental vulnerability index, especially for small island developing States. Reference was also made to the opportunity to consider appropriate management approaches and tools to protect vulnerable marine and coastal ecosystems during the preparation for the ten-year review of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States, to be held in Mauritius in 2004.

56. The two areas of focus were discussed in depth in Panels A and B, respectively. For the complete texts of presentations made by the panellists during

the discussion panels see the web site of the Division for Ocean Affairs and the Law of the Sea: www.un.org/Depts/los.

Discussion Panel A:
Safety of navigation

(a) Capacity-building for the production of nautical charts

57. Mr. Richard West (President, Consortium for Oceanographic Research and Education) focused on recent technological advances in the field of nautical charts. He underlined that improving the accuracy of charts was essential for the safety of navigation and for safety of life at sea, as well as for the protection of the marine environment, which could be adversely affected by accidents caused by inaccurate or outdated nautical charts. Statistical projections showing a marked increase in the already sizeable volume of sea traffic confirmed the importance of improving the quality of nautical charts in the future. The introduction of electronic navigational charts had improved the safety of navigation, making it possible to identify an object within approximately one metre, whereas paper charts would locate such object at a distance of more than one kilometre. He explained that the most advanced electronic navigation charts operated as databases layering different kinds of information (e.g., tides, water levels and weather data). The available state-of-the-art technology made it possible for a ship to be automatically piloted if equipped with the necessary Global Positioning System (GPS) technology and the available electronic charts, allowing real-time tracking of the position of a vessel. Applications of electronic navigation charts included their use for Geographic Information Systems, coastal zone management, marine habitat mapping, emergency response planning, and homeland and port security. Mr. West strongly urged all ships to use electronic navigation charts.

58. Mr. Kenneth Barbor (Director, International Hydrographic Bureau) highlighted the benefits of accurate up-to-date nautical charts and the value of the data used for their production for many maritime activities. He underlined that the capacity to produce nautical charts was not only beneficial to the coastal State, it was also a requirement under Chapter V of the International Convention for the Safety of Life at Sea (SOLAS). He indicated that capacity was required in the following three components of nautical charts: hydrography; nautical cartography; and a maritime safety information network. While a developing coastal State might rely upon another State for the provision of some or all of these components, they should be under the management of a properly constituted and resourced maritime safety authority. Therefore, capacity-building was essential to the realization of adequate nautical charts. Accordingly, he stressed the commitment of the Bureau and the Member States of the International Hydrographic Organization (IHO) to increase the capacity of developing States to produce nautical charts through functional assessments, technical assistance, project development and project donor identification. An objective of IHO was the coordination of activities of national hydrographic offices so that the existing capacity was put to effective use and duplication of effort was minimized. Pivotal to the effective execution of IHO's global objectives were its 14 regional hydrographic commissions, which provided a regional focus on opportunities for cooperation, sharing of resources and coordination of projects, enhancing the capacity of countries within the region. He

emphasized that the active involvement of non-member States was strongly encouraged in their respective regional hydrographic commissions.

59. Mr. Yves Desnoës (Director, Service Hydrographique et Océanographique de la Marine Française) in introducing electronic navigation charts and their application, stated that the new technology had eliminated the shortcomings of traditional paper charts. He added that even though the short-term investment necessary to start the production and use of electronic charts could be high, the long-term savings and advantages deriving from their use were by far superior. He indicated that there were three kinds of electronic navigation charts: (i) raster charts, which were merely a digital reproduction of scanned paper charts; (ii) vector charts, which operated as databases and made it possible to trace a safe course and, in real time, detect obstacles that the navigator could have missed; and (iii) charts containing high-resolution bathymetric models of the terrain, which provided refined data for a more accurate reproduction of the seabed.

60. Mr. Desnoës noted, however, that three key points had to be kept in mind in order to advance the use of such charts. Firstly, the coverage of some areas was still poor: data and information, even when available, were hard to interpret and only referred to the 73 member States of the IHO; secondly, data and information had to become more widely available, accessible and standardized; and thirdly, safety of navigation had to be enhanced. In conclusion, Mr. Desnoës stressed the need for a clearer delineation of the respective competences of IMO and IHO in order to avoid overlaps or inconsistencies. He believed that strong support from the United Nations was very important in order to make progress in this field.

Discussion

61. A number of delegations from States that were already implementing electronic navigation charts underlined the advantages of switching from traditional paper charts to electronic charts. In particular, they noted that last generation electronic navigation charts (as opposed to raster-scan charts) operated as sophisticated databases that simplified the management of maritime data and information. They indicated that this could prove very helpful for the protection of the marine environment, and especially vulnerable ecosystems, or for prospecting of the seabed. They also noted that such charts were very useful in jurisdictional mapping.

62. Other delegations, however, underlined practical shortcomings of the electronic charts. They pointed out that significant financial efforts were necessary for the transition to such charts, and while they covered mostly port and coastal areas, paper charts were still used for navigation in other areas. As a result, until electronic charts provided complete coverage, two sets of nautical charts had to be maintained. They further pointed out that currently there were no agreed standards for electronic chart production and dissemination. While some software applications offered data conversion capabilities, it was emphasized that there was a need for the development of standards in this particular field.

63. Many delegations highlighted the need of developing countries for comprehensive capacity-building in the field of nautical charts. They believed that the presence of a legal and administrative framework, as well as the necessary infrastructure, was a pre-condition fundamental to the efficient long-term management and maintenance of nautical charts. Differing views were offered with

regard to how best to coordinate the provision of technical assistance in the field of nautical charts. Some delegations underlined that the most efficient way to ensure effective capacity-building was through bilateral projects involving a national hydrographic service that was a member of IHO. Other delegations were of the view that it would be preferable to proceed within the framework of IHO and suggested the establishment of a capacity-building committee within that organization.

64. Moreover, attention was drawn to the difficulty of securing funding for technical assistance, in view of the fact that IHO did not have funding to ensure capacity-building projects. Therefore, IHO activities had concentrated on matching donors with States requiring assistance and it had also taken steps to establish a trust fund for capacity-building.

(b) Safety of navigation

65. Ms. Anne Christine Brusendorff (Professional Secretary, Baltic Marine Environment Protection Commission) indicated that the work carried out within the framework of the Baltic Marine Environment Protection Commission (HELCOM) had two aims: to protect the marine environment of the Baltic Sea from all sources of pollution, in view of its particular sensitivity; and to preserve its ecosystem. The work to reduce the environmental risks associated with the heavy traffic in the Baltic Sea area was mainly concentrated around eliminating illegal discharges; improving safety of navigation to reduce the risk of accidents; and ensuring there was an adequate ability to respond to an accident. In this connection, she referred to a package of amendments to the Helsinki Convention adopted at an extraordinary ministerial HELCOM meeting in September 2001 aimed at improving the safety of navigation and emergency response in the Baltic Sea area. She indicated that other activities required under HELCOM included regular hydrographic surveys to ensure up-to-date information on water-depths. She explained that as a result of the use of electronic navigation charts by the Baltic Sea States, all shipping routes and ports would be covered by such charts by the end of 2004. She noted that port State control officers would be intensifying the control of paper charts on ships posing a risk to the marine environment.

66. In addition, she referred to the development of a common Baltic automatic identification monitoring system, which would be operational by 1 July 2005; the decision by the Baltic Sea States to strengthen compliance with maritime safety regulations by, inter alia, establishing common procedures for the investigation of accidents; and the decision of those States to refrain from making use of any exemption and relaxation provisions in order to ensure that single-hull oil tankers would be phased out at the earliest date possible under the IMO regime. She explained that a HELCOM Ministerial Meeting in June 2003 would address the environmental impacts of shipping and decide whether to designate the Baltic Sea as a Particularly Sensitive Sea Area (PSSA). The environmental impacts of shipping would also be addressed at a subsequent joint HELCOM/OSPAR ministerial meeting.

67. Mr. Gaetano Librando (Senior Legal Officer, Legal Office, IMO) devoted his presentation to recent developments in IMO relating to the safety of navigation, outlining measures taken by IMO to address maritime security concerns, the most far-reaching being the adoption of the new International Ship and Port Facility Security Code (ISPS Code) and other amendments to SOLAS. He mentioned that the

IMO Legal Committee had begun consideration of amendments to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol.

68. In addition, Mr. Librando indicated that IMO and IHO were jointly preparing a draft resolution on hydrographic services for submission to the IMO Assembly intended to assist States in the implementation of the revised SOLAS Chapter V regulations. The draft resolution, inter alia, encouraged Governments to promptly transmit new hydrographic information to the International Hydrographic Bureau (IHB) or to the hydrographic authorities in those countries that issued charts covering waters off their shores or to otherwise ensure the earliest and widest dissemination of hydrographic information. Other important issues under consideration by IMO were the proposals by the European Union to: (i) accelerate the phase-out of single-hull tankers; (ii) broaden the application of the Condition Assessment Scheme; and (iii) prohibit the carriage of heavy-grade oils by single-hull tankers. These proposals would be discussed at the IMO's Marine Environment Protection Committee (MEPC) in July 2003 and also possibly at an extraordinary session of the Committee in December 2003. Another issue to be discussed by MEPC was the designation of a Western European PSSA and a proposed new protective measure aimed at prohibiting the carriage of heavy grades of oil in vessels of more than 600 dwt, except double-hull tankers, which would have to comply with a reporting obligation. He indicated that IMO was working on the development of guidelines for the establishment of places of refuge for ships in distress, which were to be adopted by the IMO Assembly later this year. He stated that the solution to this issue consisted in finding a balance between the duty of States to render assistance to ships in distress and the right of States to regulate entry into their ports and to protect their coastlines from pollution. In concluding his presentation, Mr. Librando drew attention to a number of measures taken by IMO to enhance flag State implementation, which included the development of an IMO model audit scheme, preparatory work to draft an implementation code and proposed measures to enhance reporting on violations.

Discussion

(i) Measures to enhance safety of navigation

69. Several delegations emphasized that recent accidents, like those involving the vessels *Erika* and *Prestige*, had resulted in serious harm to the marine environment, highlighting the importance of safety of navigation. They expressed the view that the traditional principle of freedom of navigation had to be accommodated within the increasing concerns of today's society over environmental protection. They stated that, in the event of a major pollution accident, a State might regard the international framework at its disposal as ill-adapted to its short-term needs. Nonetheless, that State should, as a priority, utilize the existing international framework to the fullest possible extent and attempt to solve remaining problems through multilateral initiatives in the competent forums. These delegations indicated that they preferred a global approach, in order to achieve an orderly development on a broader scale. They referred to the general framework provided in UNCLOS, which had to be respected, as well as the relevant provisions of IMO conventions that had to be rigorously enforced, as also recommended by the WSSD.

70. Other delegations referred to the role of IMO as the competent international organization for the adoption of international rules and standards for the safety of navigation and the prevention of marine pollution, and emphasized that any new measures regarding safety of navigation should be considered and adopted under the auspices of IMO. In connection with the proposed designation of a Western European PSSA, opinions were expressed that it was important for any proposed associated protective measure to be in conformity with UNCLOS. One delegation pointed out that UNCLOS did not provide for the establishment of PSSAs or MPAs on the high seas.

71. Moreover, several delegations specifically expressed their opposition to actions that had been taken by some European States in response to the *Prestige* incident, i.e., prohibiting the transit of single-hull tankers through their territorial seas and exclusive economic zones (EEZ) and denying entry of such vessels into their ports. They expressed the view that banning a ship from the EEZs and forcing it to navigate beyond 200 nautical miles from the coast affected the safety of such a ship and its crew and also constituted a unilateral action that contravened both UNCLOS and the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). One delegate stated that unilateral actions taken by some States had been directed against ships that complied with international rules and standards. Another delegation drew attention to the commitment by States participating in the 2003 G-8 Summit to act in accordance with UNCLOS, as reflected in the Action Plan for Marine Environment and Tanker Safety.

72. However, a number of delegations indicated that they did not endorse the opinion according to which actions taken by States that had been seriously affected by a shipping accident were ipso facto in conflict with UNCLOS. They emphasized that more attention should be given to the position of coastal States that were exposed to the dangers of disastrous accidents caused by unsafe ships. They pointed out that unilateral actions constituted a last resort, if there was no adequate response to shipping accidents at the multilateral level. They believed that States were entitled to take provisional unilateral actions on a precautionary basis and as a legitimate right of defence against unsafe vessels carrying oil and other dangerous cargo, as long as rules governing safety of navigation had not been updated. In this connection, some delegations stressed the need to reform international legal instruments, in view of the fact that some aspects of the legal framework in UNCLOS were outdated. The Convention did not address the consequences of non-compliance by flag States, which were dealt with by customary international law. They added that the general international law of State responsibility allowed the taking of counter-measures proportional to the wrongful act, justifying therefore the use of unilateral action, even though it was not the best alternative.

73. Several delegations emphasized the need to balance the interests of States transporting dangerous goods, including radioactive materials, with those of States wishing to protect the marine environment on the high seas and in areas under national jurisdiction. Another delegation stressed that any restrictions on the freedom of navigation should only be introduced with the agreement of the entire international community through IMO. They indicated that, although the pre-emptive approach emphasized a number of concerns, such an approach lacked legitimacy and effectiveness.

74. In addition, several delegations recalled that another issue of concern related to safety at sea was the high number of acts of piracy and armed robbery. They expressed their strong support for further regional cooperation to prevent and combat piracy and armed robbery at sea in high-risk areas and expressed the hope that the maritime security measures adopted by IMO would also have a positive effect. One delegation indicated that its country had initiated and promoted the strengthening of cooperation in the prevention and suppression of piracy and armed robbery at sea against ships in Asia through the development of a regional legal framework.

(ii) Improving flag State implementation and enforcement

75. It was generally agreed that the implementation of existing international safety rules and regulations by flag States — rather than the development of new regulations — was very important for the safety of navigation and the protection of the marine environment. Many shipping accidents and resulting loss of life and/or pollution were the direct result of the ineffectiveness or unwillingness of some flag States to implement safety measures and standards to prevent, reduce and control pollution of the marine environment. This problem affected not only safety of navigation, but also, for example, the working conditions of seafarers, the protection of the marine environment and the conservation of marine living resources. Many delegations underlined the need for improved implementation and enforcement by flag States of their various responsibilities under international law. Specific reference was made to the obligations under articles 94, 192, 194 (5) and 235 of UNCLOS, as well as to Principles 2, 13 and 16 of the Rio Declaration on Environment and Development. One delegation pointed out that his country as a flag State always took its responsibilities under UNCLOS and the IMO instruments seriously and would continue to do so. Another delegation pointed out that it was necessary for the flag State and the shipping industry to collaborate and share the responsibility for implementation and enforcement of relevant international rules and standards.

76. A number of delegations noted that the problems related to flag State implementation in the shipping and fisheries context, while not the same, had important similarities and needed therefore to be addressed together. In that connection, IMO and FAO were commended for their ongoing efforts to improve flag State implementation, and it was suggested that they should coordinate their efforts in this respect. Some delegations indicated that the Consultative Process and the General Assembly could play a coordinating role in the comprehensive consideration of issues associated with the development by the United Nations specialized agencies of measures to strengthen flag State implementation. In addition, specific reference was made to the development by IMO of a voluntary Model Audit scheme in conjunction with a flag State implementation code. In this regard, one delegation pointed out that only 50 of the IMO members had submitted their self-assessment forms to the organization and that more efforts were required in that regard. The same delegation also referred to the low rate of ratifications/accessions to the United Nations Fish Stocks Agreement and the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and emphasized that less than 10 States had ratified both instruments.

77. Several delegations agreed with the conclusion of the Secretary-General in his report on oceans and the law of the sea that there was a need to define the "genuine link" between the flag State and the vessel flying its flag. Some delegations expressed support for the proposal by a group of several non-governmental organizations to develop an implementing agreement to UNCLOS, which would secure the effective implementation by flag States of their obligations under both UNCLOS and applicable international law. However, a number of delegations expressed the view that restricting the scope of discussion only to the genuine link would be insufficient to address the overall effectiveness of flag State implementation. They stated that standards or criteria aimed primarily at qualifying a vessel for documentation would not ensure subsequent enforcement by the flag State of relevant international standards.

78. Accordingly, those same delegations proposed that the Consultative Process recommend to the General Assembly to: (i) confirm that every flag State should have an effective maritime administration with a firm legislative framework complying with the generally accepted international regulations, procedures and practices; (ii) urge those flag States that did not have such an effective maritime administration to take the necessary steps, on an expedited basis, to establish such an administration, and until they had one in place, to consider declining to accept new ships on their registry, and even to consider suspending their registry; (iii) recommend that no State open a ship's registry until it has an effective maritime administration; and (iv) call on all Member States, agencies and stakeholders to take an active interest in the development by ILO of a consolidated maritime labour standards convention.

79. Some delegations did not believe that a new implementing agreement was needed. The most effective way of addressing the problem of IUU fishing was to fully implement the FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing, which did not focus exclusively on improving flag State implementation, but also provided tools for coastal, port and market States to prevent or mitigate IUU fishing activities. They suggested that the work of FAO be endorsed and encouraged. Other delegations underlined the vital role of port States in promoting compliance by flag States with internationally agreed safety and pollution prevention standards. One delegation proposed that port State control should be strengthened gradually and be especially targeted to older single-hull tankers. Another delegation emphasized that the measures that were being taken by some States in relation to single-hull tankers could result in single-hull tankers moving to other regions and would raise the cost and efficiency of inspections in those regions.

Discussion Panel B:
Protection of vulnerable marine ecosystems

80. Marine ecosystems are generally defined as the sum total of marine organisms living in particular sea areas and the interactions between those organisms and the physical environment in which they interact. Vulnerable marine ecosystems could be defined as those particularly susceptible to disruption or damage by adverse impacts of human activities, such as marine pollution, overutilization of living marine resources or use of destructive fishing practices. While some ecosystems may be fairly resilient and recover quickly from external shocks, others may collapse under either slight or repeated stress. Vulnerable marine ecosystems include, but are not

limited to, mangroves, seagrasses, coral reefs, seamounts, polar regions and hydrothermal vents.

81. Mr. Daniel Pauly (The Sea Around Us Project, Fisheries Centre, University of British Columbia, Vancouver, Canada) stated that global fisheries had been declining since the late 1980s owing to overfishing, in contradiction with the official reports used in global assessments by FAO. As a result, he indicated that there was a trend by the fishing industry towards an expansion of fishing into deeper areas and further offshore, especially in the Southern Hemisphere, using fishing gear and techniques, such as bottom trawling or dredging, that generate excessive by-catches and are damaging to marine ecosystems. He also pointed out that development of aquaculture and mariculture in many cases had generated adverse impacts on capture fisheries. He suggested that the establishment of marine protected areas (MPAs), including on the high seas, could counter this global trend and reduce adverse impacts on marine ecosystems. He pointed out, however, that the establishment of such areas had to be complemented with the effective implementation of fishery management regimes in adjacent areas.

82. Mrs. Diana Ponce-Nava (Deputy Attorney-General for the Environment, Mexico) underlined the work done by Mexico to protect its marine areas and resources. She pointed out that 36 coastal and marine natural protected areas had been established along the coast of Mexico (13 characterized by rich coral reef systems) and more than 2,000 marine species had been listed as threatened since 2001. Mexico had also enacted a number of laws and regulations, some of which had made damage to protected wildlife a serious crime. As to Mexico's experience in the area of protection of coral reefs, she pointed out that the most serious problem faced by Mexico was the grounding of vessels on reefs. To illustrate her point, she gave examples of this type of accident and of the difficulties in dealing with its destructive consequences, especially in terms of liability and compensation for damage and restoration. In conclusion, she identified the issues on which competent multilateral bodies should focus for the protection of fragile ecosystems. These included: biological and ecological evaluation of coral reef system status and non-use values; fragile ecosystems information exchange; international cooperation in the event of accidents involving foreign vessels and the establishment of liability and compensation regimes; technical assistance for the production of charts; and development of economic assessment techniques for both restoration and non-use values.

83. Mr. Olav Orheim (Director, Norwegian Polar Institute) indicated that the Arctic, as a vast region of natural resources covering 33 million km^2, was a region of contrasts, challenges and opportunities. The Arctic Ocean covered 20 million km^2 and had a large continental shelf. The most striking feature was its perennial sea ice, which was in constant motion caused by winds and currents and could grow up to three metres thick. Existing arctic biological systems were young and characterized by low species diversity and a relatively high number of endemic species. The species and the food chain were well adapted to the harsh climate, including the highly variable weather conditions. Although the Arctic region had a relatively clean environment, it was the end point for contaminants transported through the atmosphere, oceans and rivers, which could become highly concentrated as they moved up the arctic food chain. The key environmental challenges in the Barents Sea were: (i) commercial fishing and its impact on the marine environment with changes affecting the rates of spawning, growth and mortality of fish populations;

(ii) persistent organic pollutants and heavy metals that accumulated in the Arctic environment, although their sources were scattered elsewhere, and were able to persist for decades; (iii) petroleum development, which had to reconcile industrial development with the conservation of fisheries and the protection of a pristine environment; (iv) shipping activities that had increased sharply since 2002, with the potential for more in 2015 when the expected pipeline from West Siberia to Murmansk would be built; (v) radioactive fallout that had originated mainly from weapons testing during the 1945-1980 period, from the Chernobyl accident of 1986 and from reprocessing facilities in Western Europe; and (vi) climate change, which would have a potential impact on an ice-free Arctic Ocean.

84. Mr. Orheim stated that Norway had taken management measures to address the issues raised by the rapid changes and potential conflicts between users. For instance, in the Archipelago of Svalbard, Norway applied the precautionary approach and the polluter-pays principle to the management of resources and had made Svalbard an important centre of research; and for the Barents Sea, had adopted an integrated management plan that involved comprehensive planning and managing of human activities in order to minimize conflicts among users, with consideration of all factors affecting the conservation and sustainable use of marine resources. The plan was based on five principles: ecosystem-based management, sustainable development, the precautionary approach, conservation and duty to attain shared responsibility. Cooperation was undertaken through the Arctic Council and the joint Norwegian-Russian Environment Protection Commission. In balancing the need for certain scientific advice against the cost of starting remedial action too late, he believed that the balance should be tilted in favour of the precautionary approach.

85. Mr. Tim Adams (Director, Marine Resources Division, Secretariat of the Pacific Community) noted that the islands of the Pacific Community had a fundamental interest in the topic of vulnerable marine ecosystems, in view of their strong dependency on the oceans for economic reasons and for food security. He indicated that the most vulnerable marine ecosystems in the Pacific islands region were coral reefs; seagrass ecosystems, as critical habitats for several economically important as well as endangered species; mangroves, as habitats for communities of organisms and in view of their essential role for maintaining the current shoreline and balance of marine life; atoll lagoon ecosystems that supported black pearl farming, therefore critical to the economies of eastern Polynesia; large pelagic ecosystems lying within the exclusive economic zones (EEZs) that supported the economically important tuna fisheries; and the high seas components of the pelagic ecosystems, which were expected to be regulated by the new Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The key threats to these ecosystems arose from their proximity to large human concentrations, in the case of coral reefs, mangroves and seagrass, or to their remoteness from effective governance, in the case of high-seas vulnerable marine ecosystems. These human-induced threats included physical damage, eutrophication, introduction of invasive species and impacts of international tourism. Other threats were water quality and disease problems in the sector of black pearl culture, when the atoll lagoon ecosystems were not rigorously managed.

86. However, he believed that management approaches might vary by ecosystem and could include the protection of specific vulnerable marine ecosystems. The goal was the integrated social and ecosystem-based management of the various natural-

resource exploitation systems, using existing management measures, while taking as many other ecosystem components into account as possible. He also stressed the importance of regional and global coordination to assist in the protection of vulnerable marine ecosystems that were threatened by commercial activities or that fell outside, or across, the jurisdiction of States in the region.

87. Mr. Matthew Gianni (Consultant, World Conservation Union) drew the attention of the meeting to the serious and increasing risk to marine biodiversity in areas beyond national jurisdiction, with particular emphasis on seamounts, noting their productivity and high endemism. He discussed the particularly destructive impacts of bottom-trawl fishing, and pointed out that fishing activities around seamounts were being conducted in an unsustainable manner in contravention of the relevant provisions of UNCLOS and the United Nations Fish Stocks Agreement. Such activities were also contrary to the objectives of the FAO Code of Conduct for Responsible Fisheries and its International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IUU fishing), as well as the goals of the Plan of Action of WSSD. He urged the international community to improve the management of risks to the marine biodiversity of seamounts on the basis of scientific evidence and in conformity with international law. He stated that the absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures, suggesting that: (i) regional fishery management organizations should put immediately in place effective measures to manage seamount fisheries within their areas of competence and enforce such measures using all means at their disposal; (ii) regional organizations should impose a moratorium on seamount fishing within their areas of competence until such effective measures were in place; and (iii) efforts should be expedited to establish management agreements, mechanisms and measures in high sea areas outside the competence of regional fishery bodies, where unregulated fishing on seamounts took place; and (iv) imposition of a moratorium on seamount fishing until such measures were in place. He also proposed that the General Assembly should play a leading role in addressing the question of the conservation of marine biodiversity of seamounts, as it had in resolutions 44/225, 45/197 and 46/215, which had been instrumental in the imposition of a global moratorium on large-scale pelagic drift-net fishing on the high seas.

Discussion

88. Many delegations underscored the need to protect vulnerable marine ecosystems and called for all stakeholders to raise awareness of such vulnerability. They indicated that many of these ecosystems were known to be rich in biodiversity and endemic species and play an important role in global food webs. They pointed out that these maritime areas were extremely sensitive to anthropogenic impacts and had undergone enormous degradation, either as a result of human activities or because of natural phenomena or the combination of these two elements. Several delegations stated that among human activities, fishing activities had the biggest impacts on marine ecosystems, since many fishing operations were still conducted in an unsustainable manner, with adverse impacts not only on target stocks but also on dependent and associated species. Other delegations reported on the respective efforts of their Governments to protect vulnerable marine ecosystems in areas under national jurisdiction, including elaboration of laws and regulations and adoption of management policies tailored towards the protection of these ecosystems.

89. With specific reference to the presentation on destructive fishing practices and their impacts on overall fisheries, several delegations stated that overcapacity, overfishing and IUU fishing, as well as excessive by-catch, were at the root of the current situation of the world's fisheries. They believed that strengthening FAO and regional fishery bodies' activities, including enforcement of conservation and management measures and implementation of flag State responsibilities, would contribute to an improvement of global fisheries management. One delegation noted that depletion of global fish stocks had been caused by current levels of fish product consumption that had similarly affected food security in developing countries.

90. In addition, several delegations stressed the fact that besides fishing activities, a number of other marine activities, including land-based sources of pollution, transportation of oil and toxic and hazardous materials, which had generated pollution in the marine environment, were equally detrimental to vulnerable marine ecosystems. They indicated that spills and groundings of vessels had occurred and have had negative impacts on marine ecosystems and fish habitats. They drew attention also to the accidental introduction of non-native species, which had become a major threat to the marine environment, indicating that all those pressures would result in the destruction and loss of vulnerable marine habitats and associated populations of species. Reference was also made to the adverse effects of tourism.

91. Moreover, a number of delegations indicated that, since there was still insufficient knowledge of the functioning of marine ecosystems, priority should be given to the study of the status of vulnerable marine ecosystems, as well as the study of the patterns and causes of their transformation, in order to allow the formulation of criteria for sustainable management approaches. They were also of the view that in order to understand the nature of the threats to vulnerable marine ecosystems it was critical for the international community to continue to support both marine scientific research and monitoring and reporting mechanisms, such as the initiative for the global reporting and assessment of the marine environment (global marine assessment).

92. Other delegations stressed the need for the international community to mainstream the conservation of vulnerable marine ecosystems into national and multilateral strategies and programmes with the involvement of all stakeholders and emphasized the contribution of such initiatives to wider sustainable development and sustainable livelihoods. These delegations pointed out that, although marine scientific research was essential for a diagnosis of the problems facing vulnerable marine ecosystems, consideration of the interrelationship between inland waters, coastal areas and marine ecosystems, including their ecological, social and economic components, was an equally crucial task. They added that improved conservation of vulnerable marine ecosystems would make a significant contribution to implementing the oceans commitments of WSSD, which specifically called for the maintenance of the productivity and biodiversity of important and vulnerable marine and coastal areas within and beyond national jurisdiction. In this connection, they emphasized the importance of capacity-building for developing countries, including financial and technical assistance and the transfer of marine technology on fair and reasonable terms and conditions, in order to further their domestic efforts to protect vulnerable marine ecosystems.

(a) Coral reef ecosystems

93. A number of delegations stated that coral reefs were one of the most important marine ecosystems in many tropical regions of the world's oceans and seas, and constituted a clear example of a vulnerable marine ecosystem, the conservation of which was essential to sustainable marine development and sustainable livelihoods. They indicated that coral reefs covered less than 1 per cent of the ocean floor, but were the richest ecosystem in the marine environment. Often referred to as the "rainforests of the sea", coral reefs provided income and food for many communities around the world and were a major focus for tourism and recreation. In addition, they protected coastal areas against erosion and sea-level rise, recycled nutrients and offered an increasing source for medical research and biotechnology. Those delegations noted, however, that coral reef ecosystems were being degraded around the world at an alarming rate, and the benefits and opportunities associated with them were now vulnerable to a range of competing pressures. Other delegations recognized the important role of the International Coral Reef Initiative (ICRI), as well as the work carried out in this field under the Jakarta Mandate of the Convention on Biological Diversity (CBD). Appreciation for the work of the Global Coral Reef Monitoring Network (GCRMN) was also expressed. In this connection, the representative of the World Bank made specific reference to a new initiative of the World Bank and the Global Environmental Facility (GEF), in partnership with IOC and others, that was aimed at creating networks of scientists from both developing and developed countries to carry out research in the field of coral reef ecosystems' vulnerability and resilience to stress from climate change.

94. In addition, some delegations drew attention to cold water coral reefs in the North-East Atlantic as an example of vulnerable marine ecosystems. They pointed out that these ecosystems, although poorly understood, were particularly rich in biological diversity, were of major importance to fisheries, and valuable for their genetic resources. These delegations also indicated that some coral reefs under national jurisdiction had been given protection against fishing practices, including prohibition of the use of certain fishing techniques, such as bottom trawling. They proposed that the international environmental agenda, including ICRI, consider ways and means of protecting such ecosystems in the future.

(b) Arctic marine ecosystems

95. A number of delegations referred to the particular importance of the Arctic marine environment, in view of its rich natural resources, unique socio-cultural aspects, economic potential and integral role in climatic processes, and of the mounting evidence that global climatic change and developmental pressures on the marine environment caused by shipping, dumping, offshore oil, gas development and land-based activities were increasing in the Arctic region.

96. Delegations reported also on the monitoring and assessment of pollution in the Arctic region carried out under the auspices of the Arctic Council. As a result of the assessment of activities posing transboundary threats to the Arctic region, the Arctic Council's Working Group dealing with emergency prevention, preparedness and response (EPPR) had concluded that the transportation and storage of oil carried risks for the Arctic environment. Moreover, the Arctic Monitoring and Assessment Programme (AMAP), which monitored pollution risks and their impacts on Arctic

ecosystems and which had issued major reports on arctic pollution, had also revealed serious pollution risks to Arctic marine ecosystems.

97. Several delegations indicated that incidences of unregulated fishing beyond national jurisdiction, persistent organic pollutants (POPs) and heavy metals, seabed activities, shipping activities and dumping, as well as effects of climate change, posed a real and continuing danger to Arctic marine ecosystems.

(c) Vulnerable marine ecosystems beyond national jurisdiction: seamounts and hydrothermal vents

98. A number of delegations underlined the importance of addressing the protection of vulnerable ecosystems and biodiversity beyond national jurisdiction, as already recommended under the Johannesburg Plan of Implementation and General Assembly resolution 57/141. The report on the subject submitted to the meeting by the delegation of the Netherlands (A/AC.259/8) was identified by several delegations as an interesting analysis of the issue. The idea of establishing a new regime to identify and protect ecosystems beyond national jurisdiction, building on the framework provided by UNCLOS, was raised. Other delegations believed that effective implementation of existing regimes was sufficient. A number of delegations supported the idea that the machinery of the Convention on Biological Diversity should be requested to continue its examination of possible legal options to address the protection of biodiversity in areas beyond national jurisdiction, in cooperation and coordination with other relevant and competent organizations.

99. Several delegations proposed the need to protect vulnerable marine ecosystems in areas beyond national jurisdiction as a whole, rather than the protection of individual components of these ecosystems. These included, inter alia, seamounts, hydrothermal vents, deep-sea trenches, deep-sea coral reefs, cold seeps and pockmarks. They also indicated that there was currently no single treaty that could be used to identify and protect all vulnerable ecosystems beyond national jurisdiction in an integrated manner. On the other hand, other delegations pointed out the need to identify and give priority to those ecosystems that would require urgent protection.

100. Many delegations identified unsustainable fishing activities among the major threats that affected high-seas marine ecosystems. Vessel-sourced pollution, seabed activities, including exploration and exploitation of non-living resources, such as oil and gas, and dumping at sea also had adverse impacts on such ecosystems. In addition, some marine scientific research, bioprospecting and the effects of organic pollutants, such as persistent organic pollutants (POPs) and endocrine-disrupting chemicals (EDCs), were considered to be potential threats to vulnerable ecosystems beyond national jurisdiction.

(d) Legal and policy framework for protecting vulnerable marine ecosystems

101. Many delegations identified UNCLOS as the global legal framework that provided for the protection of vulnerable marine ecosystems and biodiversity, both within and outside national jurisdiction, in particular, articles 192 and 194 (5), as well as Section II of Part VII. Other instruments relevant in this context included the FAO Code of Conduct for Responsible Fisheries and its related international plans of action, the United Nations Fish Stocks Agreement, the Convention on Biological Diversity, the Jakarta Mandate, the FAO Compliance Agreement, Chapter 17 of

Agenda 21, the Johannesburg Plan of Implementation and the Global Plan of Action for the Protection of the Marine Environment from Land-based Activities. Relevant bodies identified were: International Coral Reef Initiative (ICRI), FAO Commission on Genetic Resources for Food and Agriculture, the International Waters Programme of the Global Environment Facility (GEF). The work of IMO, the International Seabed Authority (ISA) and FAO and regional fishery bodies in this area were also considered to be particularly relevant.

102. At the regional level, several delegations praised a number of initiatives and programmes carried out in the context of the regional seas conventions and action plans. Examples of regional agreements and institutions aiming at enhancing protection of vulnerable marine ecosystems included: the Convention for the Protection of the Marine Environment and the Coastal Area of the South-East Pacific and its Plan of Action; The Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region and its Protocol Concerning Specially Protected Areas and Wildlife; the Convention on the Protection of the Marine Environment of the Baltic Sea Area; the Arctic Council; and the Convention for the Protection of the Marine Environment of the North-East Atlantic.

(e) Management tools for the protection of vulnerable marine ecosystems

(i) Implementation of an integrated marine and coastal area management (IMCAM)

103. A number of delegations referred to integrated marine and coastal area management (IMCAM) as an effective management approach for protecting vulnerable marine ecosystems. They indicated that such an integrated approach, based on the development of ecosystem objectives, would bring together diverse groups to develop the means to effectively plan and manage human activities occurring in, or affecting, the marine environment. They pointed out that this approach was intended to encompass a range of different tools to be applied in a variety of different situations, including the establishment of marine protected areas (MPAs). Several delegations expressed support for the pilot programme of the White Water to Blue Water Initiative in the Wider Caribbean Region, which was designed to promote cross-sectoral management of watersheds and marine ecosystems.

(ii) Establishment of marine protected areas (MPAs)

104. Many delegations expressed support for the establishment of marine protected areas as a management tool for integrated ocean management in areas within and beyond national jurisdiction. A number reported on the management of such protected areas in areas under their national jurisdiction. Some delegations expressed preference for a zonal approach in the management of such areas. One delegation drew attention to the establishment of a marine protected area on the high seas areas in the Mediterranean Sea, in accordance with article 194 of UNCLOS. Another delegation expressed concern over the possible loss of revenues from access agreements by developing countries in the event of establishment of such protected areas in areas under national jurisdiction. With regard to the establishment of MPAs on the high seas, some delegations stressed that such protected areas had to be: (i) based on scientific evidence; (ii) enforceable; (iii) specific for each marine area and objective; (iv) consistent with the ecosystem approach; and (v) in conformity with international law. One delegation proposed that the issue of marine

protected areas be recommended to the General Assembly for future consideration at the Consultative Process.

(iii) Application of the ecosystem approach

105. Many delegations reiterated their support for the application of an ecosystem-based approach as a management tool to protect vulnerable marine ecosystems and their biological components. In this context, they welcomed the work undertaken under the Convention on Biological Diversity and within FAO, as well as other relevant international organizations, to develop strategies and guidelines for its implementation.

(iv) Application of the precautionary approach

106. Several delegations made reference to the importance of the application of the precautionary approach, as provided for in the Rio Principles, the FAO Code of Conduct for Responsible Fisheries and the United Nations Fish Stocks Agreement. They stated that the absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures. They also emphasized that the concept of the precautionary approach should particularly be applied in respect of the establishment of marine protected areas.

Agenda item 4
Exchange of views on cooperation and coordination on ocean issues

A. Establishment of a new coordination mechanism

107. Mr. Patrizio M. Civili, Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs of the Department of Economic and Social Affairs (DESA) and Secretary of the Chief Executives Board (CEB), was represented at the fourth meeting of the Consultative Process by Mr. Navid Hanif, Senior Policy Officer, Office of the Under-Secretary-General, DESA.

108. Mr. Hanif presented a paper on the current status of deliberations within the High-Level Committee on Programmes (HLCP) regarding the establishment of a new mechanism for inter-agency cooperation and coordination on oceans and the law of the sea to replace the former Administrative Committee on Coordination (ACC) Subcommittee on Oceans and Coastal Areas (SOCA).

109. At the request of the Chief Executives Board (CEB), the High-Level Committee on Programmes (HLCP) was in the process of elaborating proposals on inter-agency cooperation for the follow-up to the World Summit on Sustainable Development. The HLCP deliberations were guided by the Johannesburg Plan of Implementation and by General Assembly resolution 57/141, which invited the Secretary-General to establish an effective, transparent and regular inter-agency coordination mechanism on ocean and coastal issues within the United Nations system.

110. With respect to oceans and coastal areas, the High-Level Committee had identified three core functions, namely, (a) regular networking at the level of experts for the day-to-day coordination of ongoing operational and other activities and the

management of joint projects; (b) the development of system-wide responses to emerging issues, as identified by the relevant intergovernmental bodies and/or agencies/programmes, through arrangements tailored to the specific requirements of each issue; and (c) monitoring overall coverage and strategic coherence, which is ultimately the responsibility of the CEB, with the support of the High-Level Committee.

111. At the CEB April 2003 session, the executive heads had generally agreed with the overall approaches developed by the High-Level Committee on Programmes (HLCP). Further elaboration of the HLCP proposals was under way and its recommendations would probably be finalized by September 2003 and submitted to the fall session of the Board. Once the recommendations have been approved by the CEB, they will be made available to Member States.

112. In this connection, the Secretary-General of the International Seabed Authority (ISA) enquired how the proposed coordination mechanism differed from previous ones and whether other organizations outside the United Nations had been consulted. In reply, Mr. Hanif stated that United Nations agencies and other organizations would be consulted prior to finalizing the recommendations.

113. The Executive Secretary of the Intergovernmental Oceanographic Commission (IOC) of UNESCO stated that a number of agencies of the former Administrative Committee on Coordination (ACC) Subcommittee on Oceans and Coastal Areas (SOCA) were of the opinion that in coordinating oceans issues it would be useful to have a two-tier approach. First, an open-ended group of representatives (at the Director level) of programmes and relevant agencies should meet regularly, at least once a year, to review ongoing and identify new joint activities by two or more agencies. The timing of such a meeting could be back-to-back with the Consultative Process or preceding it. Secondly, specific time-bound initiatives with well-defined terms of reference should be led and implemented by task-oriented groups. Appropriate modalities for the involvement of organizations outside the United Nations system could be introduced at this level. A good example of this second type of task-oriented group would be a task force dedicated to the coordination of the Global Marine Assessment (GMA).

114. Most delegations supported the idea of establishing a new mechanism for coordination and cooperation and emphasized that such a mechanism should be permanent, meet on a regular basis, be accountable to Member States and be composed of all relevant organizations, including the secretariats of multilateral environmental treaties, ISA, IHO, UNDP, GEF, as well as DOALOS of the United Nations Secretariat. However, one delegation opposed proposing the establishment of such a mechanism and preferred instead to rely on cooperation and coordination between States at the national level.

115. The view was also expressed that the new coordination mechanism should have a clear mandate and be established on the basis of principles of continuity, regularity and accountability. The new mechanism should be able to work at two levels: (i) through regular reviews of issues relating to oceans and seas involving several core participating institutions, and reviews of their mandates in order to eliminate gaps, inconsistencies and unnecessary overlaps; and (ii) through the establishment of specific task forces, as needed, to carry out task-oriented activities. Coordination only for ad hoc issues was deemed to be insufficient.

116. As regards the former ACC Subcommittee on Oceans and Coastal Affairs (SOCA), it was mentioned that it would have been more prudent to have maintained SOCA in existence until its replacement by a new coordination mechanism. It was also regretted that a new coordination mechanism had yet to be established and that HLCP was still involved in consultations with United Nations bodies on the matter.

117. One delegation mentioned that in many respects the challenges facing coordination in the United Nations were not unlike those — in scale and scope — that face public administrations at the national level. It was suggested that the goal should be collaboration, coordination and cooperation in a transparent, effective, accountable and responsive manner through, for example, memoranda of understanding that would focus on collaborative efforts in areas of shared interests.

118. It was also suggested to keep the general item of cooperation and coordination for future Consultative Process meetings and build the issue more formally into panel discussions on specific oceans topics, thus promoting improved agency collaboration. In this connection, a suggestion was made to propose to the General Assembly that responsible agencies report back, as part of the agenda item on cooperation and coordination, the extent of their joint follow-up/coordination since the last Consultative Process meeting. This would reinforce the call by a number of delegations for monitoring and follow-up and would add continuity to a small portion of the agendas of and reports to the General Assembly. Another proposal was that the principal agencies involved in upcoming panel topics develop a joint paper to be presented as a first item for panels, which would be focused on the extent and type of inter-agency coordination on the subject areas, to complement the Secretary-General's report on oceans and the law of the sea, which should continue to be developed and distributed in advance of Consultative Process meetings.

119. It was generally agreed that coordination and cooperation were essential in order to ensure a truly integrated approach to oceans management. But, several delegations were not convinced that it was preferable to use an existing structure within the United Nations, such as the Chief Executives Board, to achieve that purpose. In order to ensure that the new mechanism would be effective and task-oriented, it should ensure a true dialogue between relevant bodies and be guided by policy directions contained in General Assembly resolutions on oceans and the law of the sea and fisheries. The new mechanism should also seek to enable improved coordination between international institutions and agencies and regional organizations, including those related to fisheries management, marine science and monitoring, development finance, navigation and the protection of the marine environment. The new mechanism should be accountable to Member States and provide a coordinated report to the Consultative Process meetings, with a representative being present at such meetings to provide further information and reply to questions. The new mechanism should also operate within existing budgetary constraints. Some of the issues that the new mechanism should take up immediately, it was suggested, were high-seas biodiversity conservation, IUU fishing, introduced marine pests and coral reef management.

120. One delegation, however, did not consider it appropriate to reopen the issue at this meeting, noting the matter was symptomatic of a lack of coordination and cooperation within national agencies.

121. Finally, as regards the Co-Chairs' summary of discussions, many delegations were in favour of recommending that the General Assembly take into account the

views of delegations at the fourth meeting, as reflected in the Co-Chairpersons' summary of discussions regarding the establishment of a general mechanism for cooperation and coordination. However, one delegation, with the support of another, did not share that view, maintaining that reference to informal discussions could not be made in recommendations to the General Assembly.

B. Consultative Group on Flag State Implementation

122. As regards flag State implementation, the Secretary of the Consultative Process explained that a consultative group had been established to exchange information on research conducted and views on measures that had been already undertaken. The Division for Ocean Affairs and the Law of the Sea (DOALOS) of the United Nations Office of Legal Affairs had formed the Consultative Group on Flag State Implementation as a result of a letter sent by several non-governmental organizations to the United Nations Secretary-General. Consequently, terms of reference had been drawn up and the following agencies, conference and programmes had been invited to become members of the Group: FAO, IMO, ILO, UNEP, the United Nations Conference on Trade and Development (UNCTAD) and the Organisation for Economic Cooperation and Development (OECD).

123. The Consultative Group had held its first meeting at OECD headquarters in Paris on 7 May 2003. The discussions had focused on the competence between the organizations in attendance, as well as the common issue of flag State implementation. The organizations were to exchange papers by August 2003 on initiatives and measures taken thus far and to be taken in the future, and thereafter a preliminary report would be issued by DOALOS to the participants to be followed by a final report to be submitted to the Secretary-General.

C. Global Marine Assessment (GMA)

124. With regard to the Global Marine Assessment (GMA), one delegation stated that the aim of the regular assessment process was to strengthen international action to protect the oceans from impacts of land-based pollution and other human-induced threats causing marine pollution or physical degradation of the marine environment. Policy makers need to be provided with accessible and authoritative information on the state of the marine environment in order to address the most urgent issues. Moreover, it was recalled that existing information was fragmented and lacked coherence and comparability and did not provide the necessary policy guidance. The success of the GMA should lead to a better harmonization of ongoing marine assessments, minimize duplication of efforts and guarantee a better use of resources within the United Nations system.

125. It was also suggested that the GMA process should be designed to take place in two phases: one drawing together the scientific information and providing a synthesis based upon ongoing assessments to be undertaken by a scientific panel; the other, consisting of a dialogue involving scientists, policy makers and other stakeholders to develop the policy response to the scientific evidence, which was to take place at an appropriate forum.

126. DOALOS was requested, in drawing up its report on the GMA, which should be made available well in advance of the oceans and law of the sea debate in the General Assembly in 2003, to work closely with all relevant United Nations bodies identified in General Assembly resolution 57/141 and take into account the work

already done on the GMA concept by the expert meetings in Reykjavik in 2001 and in Bremen in 2002, as well as the review of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) in 2002.

127. Another delegation suggested that DOALOS should convene an inter-agency meeting to define the participation and contributions of the organizations involved and proposed that a web-based portal of GMA-related initiatives should be created. In addition, support was expressed for DOALOS to convene a group of experts to prepare a plan for the GMA to be considered by an intergovernmental meeting to be held in 2004.

128. Another suggestion expressed was that one aspect of the GMA might be the construction of a super-portal, which would be superimposed on existing resources, such as the United Nations Atlas of the Oceans, the Ocean Biogeographic Information System, the Census of Marine Life, as well as other databases on the oceans. By working with existing web-based products, the need to form new institutional structures would be minimized.

129. As for the outcomes of a GMA feasibility study, UNEP recommended that the GMA should be based on a partnership approach, where all agencies contribute to the GMA within their mandates, thus making the GMA a tool for action with both policy and science dimensions. To this end, the scientific community should be widely consulted. It was stressed that integrating capacity-building for developing countries in all phases of the assessment process was of paramount importance.

Agenda item 5
Identification by the Co-Chairpersons of issues that could benefit from future work of the General Assembly on oceans and the law of the sea

130. Mr. Burgess, Co-Chairperson, recalled the report of the third meeting (2002) on issues for future consideration (A/57/80, Part C). Delegations took due note of the list of issues contained therein. The Co-Chairpersons' summary of the conclusions based on those comments is set out in Part C of the present report.

Part C
Issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea

131. There was agreement that the following list, being the topics identified for future consideration at the three previous meetings of the Consultative Process, remained valid as a list of topics meriting attention from the General Assembly:

(a) Marine protected areas;

(b) Review of the national, regional and global implementation of Part XII of the United Nations Convention on the Law of the Sea;

(c) Potential and new uses of the oceans;

(d) Development and transfer of marine technology;

(e) Oceans stewardship/ecosystem-based integrated management of the marine environment;

(f) Food security and mariculture;

(g) Cooperation and coordination between regional fisheries organizations and regional seas conventions and action plans of the United Nations Environment Programme;

(h) Impact of the activities in the international seabed area as a source of contamination of the marine environment;

(i) Effect of fishery subsidies on the conservation of marine living resources;

(j) Marine debris;

(k) Convergence of the legal and programmatic dimensions of international cooperation;

(l) Navigation in ecologically sensitive areas;

(m) Protection of coastal areas from the introduction of non-native species;

(n) Possibility of reviewing progress on issues discussed at meetings of the Consultative Process;

(o) The science underlying the identification and management of marine protected areas;

(p) Implementation of existing international instruments;

(q) Competing uses of the continental shelf, including mariculture, the laying of cables and pipelines, and exploitation of non-living marine resources;

(r) Protecting the biological diversity of the seabed;

(s) Capacity-building for the collection of marine geographic data.

132. Further topics suggested for identification were:

(a) Enhancement of the prevention and prosecution of crimes at sea;

(b) Review of the effectiveness of the exclusive economic zone in ensuring the conservation and management of living resources;

(c) Harmonization of treaty obligations relevant to oceans issues;

(d) Flag State responsibility and performance;

(e) The Global Marine Assessment (GMA);

(f) Examination of progress in the implementation of the oceans chapter of WSSD;

(g) Settlement of disputes: to encourage the use of the International Tribunal for the Law of the Sea and the International Court of Justice;

(h) Human rights of seafarers;

(i) Transport of illegal weapons by sea;

(j) Access to and protection of the genetic resources of the oceans; and

(k) Liability and compensation for damage to the marine environment; and responsibility of States.

133. Two delegations did not support the inclusion of marine and coastal issues related to WSSD.